

1  
2  
3  
4  
5 Hon. Richard Jones  
6

7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 KYLE LYDELL CANTY,

11 Plaintiff,

12 vs.

13 CITY OF SEATTLE, et al.,

14 Defendants.

15 NO. 2:16-CV-01655-RAJ-JPD

16 CITY OF SEATTLE DEFENDANTS'  
17 RESPONSE TO PLAINTIFF'S MOTION  
18 AND DECLARATION OF DEFENDANTS  
19 MOTIVE AND RETALIATION

20 **I. RELIEF REQUESTED**

21 Defendants City of Seattle, Officer Marshall Coolidge, Sean Culbertson, Timothy  
22 Renihan and Officer Hancock (City of Seattle Defendants) request the Court deny Plaintiff's  
23 Motion and Declaration of Defendants Motive and Retaliation for failure to comply with Fed.  
24 R. Civ. P. 7(b)(1).

25 **II. FACTS RELEVANT TO MOTION**

26 Plaintiff originally filed his 1983 Prisoner Civil Rights Complaint naming the City of  
Seattle and the Seattle Police Department as defendants on November 5, 2016. Dkt. 5.  
Plaintiff eventually filed a Second Amended Civil Rights Complaint naming the City of Seattle  
and individual officers Coolidge, Culbertson, Renihan, and Hancock on June 1, 2017. Dkt. 38.  
Plaintiff's Complaint alleges the City of Seattle Defendants violated his rights under the

Fourth, Fifth, and Eighth Amendments to the United States Constitution during his detention on a civil commitment warrant. *Id.* Plaintiff subsequently filed this Motion and Declaration of Defendants Motive and Retaliation on July 10, 2017. Dkt. 53. Plaintiff's Motion consists of a five-page "Affidavit of Facts" that describes the processing of his petition for asylum to Canada, includes as an exhibit an opinion piece he wrote for *The Guardian* about his asylum petition, and asserts that the City of Seattle Defendants used information about his asylum petition for improper purposes. Dkt. 53.

### III. ARGUMENT

**Plaintiff's Motion Should Be Denied Because It Does Not State Any Particular Grounds For Seeking An Order, Or What Relief Is Sought**

The Rules of Civil Procedure require that requests for court orders be made by motion. Fed. R. Civ. P. 7(b)(1). Motions must: 1) be in writing; 2) state with particularity the ground for seeking the order; and 3) state the relief sought. *Id.* Courts have generally given liberal interpretation to Rule 7(b)'s requirement that motions "state with particularity the grounds therefor." *Harkins v. Ford Motor Co.*, 437 F2d 276 n.1 (3d Cir. Pa. 1970). However, Rule 7(b)'s requirement that the moving party state with particularity grounds for his motion is not intended to be merely a matter of form, but real and substantial. *Steingut v. National City Bank*, 36 F Supp 486, 487 (D.N.Y. 1941). "[M]otions giving no reasons have no effect" and should be denied. *Stephenson v. Deutsche Bank AG*, 282 F. Supp. 2d 1032, 1041 n.7 (D. Minn. 2003), quoting *Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Wisconsin*, 957 F.2d 515, 516 (7th Cir. 1992). Courts have usually interpreted Fed. R. Civ. P. 7(b) strictly, refusing to recognize requests for relief not specified in the moving papers. *De Lorenzo v. Fed. Deposit Ins. Corp.*, 268 F. Supp. 378, 381 (S.D.N.Y. 1967).

Plaintiff's "motion" contains a five-page recitation of self-serving facts and speculation allegedly demonstrating the City of Seattle Defendants' improper and/or retaliatory motives.

1 Dkt. 53. Plaintiff's motion does not state what, if any, relief he is seeking by filing this  
 2 document. Nor has he filed a proposed order with his motion as required by local rule that  
 3 might enlighten the City of Seattle Defendants as to his motion's purpose. *See* W.D. Wash.  
 4 LCR 7(b)(1). Plaintiff states no legal basis whatsoever for his motion, let alone the particular  
 5 grounds required by Fed. R. Civ. P. 7(b) for filing a motion. The lack of grounds and request  
 6 for relief are fatal to Plaintiff's motion and the Court should therefore deny it.

7 **IV. CONCLUSION**

8 Plaintiff's Motion and Declaration of Defendants Motive and Retaliation states no legal  
 9 grounds for seeking an order, nor includes any request for relief as required by the Federal  
 10 Civil Rules. The Court should therefore deny Plaintiff's motion.

11 DATED this 24th day of July, 2017.

12 s/ Gregory E. Jackson  
 13 GREGORY E. JACKSON, WSBA #17541  
 14 Freimund Jackson & Tardif, PLLC  
 15 701 5th Avenue, Suite 3545  
 16 Seattle, WA 98104  
 17 Telephone: (206) 582-6001  
 18 Facsimile: (206) 466-6085  
 19 gregj@fjtlaw.com  
 20 Attorneys for Defendants City of Seattle,  
 21 Officer Marshall Coolidge, Sean Culbertson,  
 22 Timothy Renihan and Officer Hancock

23 s/ John R. Nicholson  
 24 JOHN R. NICHOLSON WSBA #30499  
 25 Freimund Jackson & Tardif, PLLC  
 26 701 5th Avenue, Suite 3545  
 27 Seattle, WA 98104  
 28 Telephone: (206) 582-6001  
 29 Facsimile: (206) 466-6085  
 30 [Johnn@fjtlaw.com](mailto:Johnn@fjtlaw.com)  
 31 Attorneys for Defendants City of Seattle,  
 32 Officer Marshall Coolidge, Sean Culbertson,  
 33 Timothy Renihan and Officer Hancock

s/ Amee J. Tilger

AMEE J. TILGER, WSBA #34613

Freimund Jackson & Tardif, PLLC

701 5th Avenue, Suite 3545

Seattle, WA 98104

Telephone: (206) 582-6001

Facsimile: (206) 466-6085

AmeeJ@fitlaw.com

Attorneys for Defendants City of Seattle,  
Officer Marshall Coolidge, Sean Culbertson,  
Timothy Renihan and Officer Hancock

## CERTIFICATE OF SERVICE

I certify that on the 24th day of July, 2017, I caused a true and correct copy of this document to be served on the following in the manner indicated below:

Pro se Plaintiff,  Kyle Lydell Canty #216035994 King County Jail (Seattle) 500 5 <sup>th</sup> Ave. Seattle, WA 98104	( X ) U.S. Mail
---	-----------------

DATED this 24th day of July, 2017, in Seattle, Washington.

s/Courtney Grubb  
COURTNEY GRUBB, Legal Assistant to  
GREGORY E. JACKSON  
JOHN R. NICHOLSON  
AMEE J. TILGER  
701 5<sup>TH</sup> Avenue, Suite 3545  
Seattle, WA 98104  
courtneyg@fjtlaw.com